

**IN THE JUSTICE OF THE PEACE COURT OF  
THE STATE OF DELAWARE, IN AND FOR N.C.COUNTY  
COURT NO.13**

PLAINTIFF

Robert Perez  
Robyn Perez  
1324 W. 7<sup>th</sup> Street  
Wilmington, De. 19805

v.

CIVIL ACTION: JP13-08-013768

DEFENDANT

Monique Murphy-Anderson  
Robert Anderson  
PO Box 902  
Wilmington, De. 19809

**ORDER**

Trial de novo held May 4, 2009. Plaintiffs Robert and Robyn Perez failed to appear. Defendants Robert Anderson and Monique Murphy-Anderson were self-represented.

**Procedural Posture**

After a trial on the merits at the Court below, a net judgment was awarded in favor of the Plaintiffs for \$6,000 (after 25% rent abatement) and possession. Defendants appealed to a three-judge panel.

Trial de novo was first scheduled on February 13, 2009. Defendants appeared and Plaintiffs failed to appear, the case was non-suited. Defendants did not go forward with a counterclaim at this hearing. On the same date, but after the hearing was held, Plaintiffs submitted a motion to vacate non-suit judgment alleging they had not received notice because they had been displaced as a result of a fire at their residence. A hearing was scheduled March 3, 2009, both parties appeared. The motion was granted and the trial de novo was rescheduled to March 20, 2009. The Court confirmed the addresses for both parties.

On the rescheduled trial de novo date of March 20<sup>th</sup>, neither party appeared. A motion to reopen was received from the Defendants on or about April 4, 2009 alleging court error as to date and time contained in the notice for trial. A review of the Court's file revealed that clerical errors were made on the trial notices. A new hearing was scheduled May 4, 2009. The notice sent to all parties indicated that the hearing would be

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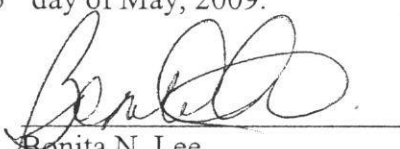
a "trial de novo (new trial) of the claims..." The notice further stated "you must present your case to the three judge panel." At the time of the hearing on May 4, 2009, only the Defendant's appeared.

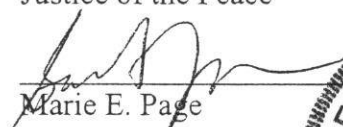
### Conclusion

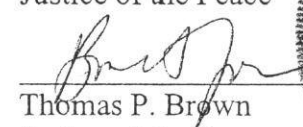
The Court granted Defendant's motion to re-open based on court error regarding notice of the previous hearing. Plaintiff's case-in-chief was dismissed due to failure to prosecute. Defendant's counterclaim was permitted to go forward. Judgment on the counterclaim was entered in favor of Defendant/Counterclaim Plaintiffs Robert Anderson and Monique Murphy-Anderson for \$3,585.00 which represents \$150 per month paid to landlord from August 2007 through June 2008 over and above the monthly rent of \$850.00 that was to be credited toward purchase of property, \$1000.00 security deposit and 10% rent abatement due to the defective conditions that diminished the tenant's use and enjoyment of the premises. The court notes the tenants were evicted from the rental unit on or about March 16, 2009

Final judgment awarded to Robert Anderson and Monique Murphy-Anderson in the amount of \$3,585.00.

IT IS SO ORDERED this 15<sup>th</sup> day of May, 2009.

  
Bonita N. Lee  
Justice of the Peace

  
Marie E. Page  
Justice of the Peace

  
Thomas P. Brown  
Justice of the Peace

